

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DAVID LETT

Plaintiff,

CASE NO. 11-CV-14714

vs.

DISTRICT JUDGE STEPHEN J. MURPHY III

OMEGA FINANCIAL, INC.,

MAGISTRATE MONA K. MAJZOUN

Defendant.

REPORT AND RECOMMENDATION

I. RECOMMENDATION: This Court recommends that Plaintiff's Motion for Attorney's Fees and Costs Pursuant to Judgment (docket no. 9) should be **GRANTED** in the amount of \$2,795.50 in attorney's fees and \$410.00 in costs, for a total award of \$3,205.50, which Defendant should remit to Plaintiff's counsel on or before October 5, 2012.

II. REPORT:

This matter comes before the Court on Plaintiff's Motion for Attorney's Fees and Costs filed on March 1, 2012. (Docket no. 9). Defendant did not file a response in opposition to the motion. The motion was referred to the undersigned for hearing and determination pursuant to 28 U.S.C. § 636(b)(1)(A). (Docket no. 10). Although referred for hearing and determination, because this is a post-judgment matter this Court must proceed by Report and Recommendation pursuant to 28 U.S.C. § 636(b)(1)(B). *See Massey v. City of Ferndale*, 7 F.3d 506, 510 (6th Cir. 1993). The Court dispenses with oral argument on the motion pursuant to E.D. Mich. LR 7.1(f). The motion is now ready for ruling.

Plaintiff David Lett initiated this action on October 26, 2011 against Defendant Omega Financial, Inc. for violations of the Fair Debt Collection Practices Act (FDCPA), the Michigan Collection Practices Act, and the Michigan Occupational Code. (Docket no. 1). On November 30, 2011, after Defendant failed to plead or otherwise defend against the complaint, the clerk entered a default against Defendant. (Docket no. 5). Subsequently, on January 25, 2012, the Court entered a default judgment in favor of Plaintiff and against Defendant in the amount of \$1,000, plus court fees and attorney fees to be determined at a later date. (Docket nos. 7, 8). The Court found that Plaintiff was entitled to an award of court costs and attorney fees under 15 U.S.C. § 1692k(a)(3), which provides that a debt collector who fails to comply with the FDCPA is liable for “the costs of the action, together with a reasonable attorney's fee as determined by the court.” 15 U.S.C. § 1692k(a)(3).

Plaintiff in his motion requests \$2,946.50 in attorney fees and \$410.00 in costs, totaling \$3,356.50. (Docket no. 9). Plaintiff documents \$1,560.00 in attorney fees for work performed by Plaintiff's counsel, billed at a rate of \$300.00 per hour for 5.2 hours. Plaintiff also documents 6.25 hours of paralegal work billed at a rate of \$140.00 per hour, and 4.65 hours of work performed by legal assistants billed at a rate of \$110.00 per hour, for a total of \$875.00 in paralegal fees and \$511.50 in legal assistant fees.

The Court has reviewed the motion and recommends that Plaintiff be awarded \$410.00 in costs along with a portion of the attorney fees requested. The fees sought by Plaintiff for work performed by Plaintiff's counsel, totaling \$1,560.00, are reasonable, both in terms of hourly rate and hours expended on the case. The undersigned recommends that the Court exclude \$63.00 in fees for services performed by paralegal Julie LaManna, and \$88.00 in fees billed for work performed

by legal assistants Brandy Moore, Lacey Cobb, and Maura LeMay. The services to be excluded total 0.45 paralegal hours and 0.8 legal assistant hours, for a total of \$151.00, and are described as follows:

1/24/11 Received Validation Letter from Client, Scanned and Saved to File, Left client a VM 0.25
 1/31/11 Received Green Card for C & D and Validation letter, Saved to file. 0.2
 10/27/11 Summons Received and update of systems 0.1
 11/8/11 Postal Received, updates to system 0.2
 1/26/12 Received Order Granting Motion and Costs and Judgment, updates made to system 0.5

These services are administrative or clerical in nature, and do not represent legal work.

Accordingly, the undersigned recommends that Plaintiff's Motion for Attorney Fees and Costs Pursuant to Judgment (docket no. 9) be granted in the amount of \$410.00 in costs and \$2795.50 in attorney fees, for a total award of \$3205.50, which Defendant should remit to Plaintiff's counsel on or before October 5, 2012.

III. NOTICE TO PARTIES REGARDING OBJECTIONS:

The parties to this action may object to and seek review of this Report and Recommendation, but are required to act within fourteen (14) days of service of a copy hereof as provided for in 28 U.S.C. § 636(b)(1) and E.D. Mich. LR 72.1(d)(2). Failure to file specific objections constitutes a waiver of any further right of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985); *Howard v. Sec'y of Health & Human Servs.*, 932 F.2d 505 (6th Cir. 1991); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). Filing of objections which raise some issues but fail to raise others with specificity, will not preserve all the objections a party might have to this Report and Recommendation. *Willis v. Sec'y of Health & Human Servs.*, 931 F.2d 390, 401 (6th Cir. 1991); *Smith v. Detroit Fed'n Of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Pursuant to E.D. Mich. LR 72.1(d)(2), a copy of any objections is to be served upon this Magistrate Judge.

Any objections must be labeled as “Objection #1,” “Objection #2,” etc. Any objection must recite *precisely* the provision of this Report and Recommendation to which it pertains. Not later than fourteen days after service of an objection, the opposing party must file a concise response proportionate to the objections in length and complexity. The response must specifically address each issue raised in the objections, in the same order and labeled as “Response to Objection #1,” “Response to Objection #2,” etc.

Dated: September 6, 2012

s/ Mona K. Majzoub

MONA K. MAJZOUB

UNITED STATES MAGISTRATE JUDGE

PROOF OF SERVICE

I hereby certify that a copy of this Report and Recommendation Counsel of Record on this date.

Dated: September 6, 2012

s/ Lisa C. Bartlett

Case Manager